



INTERIOR BOARD OF INDIAN APPEALS

Estate of Daniel Heil Powers

36 IBIA 137 (05/23/2001)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF DANIEL HEIL POWERS : Order Docketing and Dismissing Appeal
: and Referring Matter to the Hearings
: Division, Office of Hearings and Appeals
:
: Docket No. IBIA 01-120
:
: May 23, 2001

On May 21, 2001, the Board of Indian Appeals (Board) received a notice of appeal from Rose Walrath and Mary Zambrano (Appellants), pro sese. Appellants seek review of an order determining heirs and decree of distribution issued on March 20, 2001, in the estate of Daniel Heil Powers by Attorney Decision-Maker Ange Aunko Hamilton. AB-088-H-01-A.

The Attorney Decision-Maker provided information concerning the right to appeal her decision to the Board. That information was correct at the time it was given. However, on March 23, 2001, new regulations governing probate decisions issued by the Bureau of Indian Affairs took effect. The probate proceeding at issue here appears to be a summary distribution under new 25 C.F.R. § 15.206. Under subsection 15.206(d), interested parties may appeal a summary distribution decision under Subpart E of Part 15. Subpart E, 25 C.F.R. § 15.402, provides that notices of appeal from decisions issued by Attorney Decision-Makers are to be filed with the Attorney Decision-Maker who issued the decision. That Attorney Decision-Maker is then responsible for referring the appeal to the appropriate Administrative Law Judge in the Office of Hearings and Appeals.

Because the appeal information that Appellants were given was correct at the time, and because they followed that appeal information, the Board concludes that their appeal should be considered as if it had been filed with the Attorney Decision-Maker and referred to the appropriate Administrative Law Judge by the Attorney Decision-Maker. The Board makes no further findings in this matter.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed and dismissed as premature. This matter is referred to the Hearings Division of the Office of Hearings and Appeals for assignment to the appropriate Administrative Law Judge.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge